



## **H.R. 1684 – Department of Homeland Security Authorization Act for FY2008**

### **Executive Summary**

The House will consider H.R. 1684, the Department of Homeland Security Authorization for FY2008, on May 9, 2007, under a structured rule. H.R. 1684 authorizes \$39.9 billion to fund the Department of Homeland Security in FY2008, which is \$2.1 billion more than the President requested. According to CBO, the bill would cost an estimated \$39.5 billion from 2008 to 2012.

While the bill was approved unanimously by the Homeland Security Committee, the Democrats will offer a manager's amendment on the floor stripping 16 provisions (19%) from the bill and amending an additional 26 provisions (30%) of the bill. Removing this language would impact areas such as: 1) Maritime alien smuggling; 2) Immigration enforcement; 3) Secret Service funding; 4) Lobbying restrictions for DHS employees; and 5) Coast Guard recruiting.

### **Floor Situation**

H.R. 1684 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of debate equally divided and controlled by the Chairman and Ranking Member of the Committee on Homeland Security.
- Waives all points of order against its consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides for consideration of only those amendments made in order pursuant to the rule. Each amendment is debatable for 10 minutes.
- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The bill was introduced by Representative Bennie Thompson (D-MS) on March 26, 2007. The House Committee on Homeland Security approved H.R. 1684 by a vote of 26 to 0 on March 28, 2007. However, the Chairman of the Homeland Security Committee submitted a manager's amendment to the Rules Committee that strips significant provisions from H.R. 1684.

The bill is expected to be considered on the floor on May 9, 2007.

*Note: In the 109<sup>th</sup> Congress, the House passed the Department of Homeland Security Authorization for FY2006 (H.R. 1817) on May 18, 2005, by a vote of 424 to 4. The Senate never passed H.R. 1817. The House never considered the Department of Homeland Security Authorization for FY2007 (H.R. 5814).*

## **Background**

On September 11, 2001, America was attacked by Al Qaeda terrorists who coordinated the hijacking of four commercial airliners; flying two of them into the World Trade Center, one into the Pentagon and one into a field in Shanksville, Pennsylvania. This unparalleled terrorist attack resulted in 2,973 fatalities.

In response to these horrific attacks, the Republican Congress enacted over 70 laws to enhance our abilities in the War on Terror, including The Homeland Security Act of 2002 (PL 107-296). This legislation consolidated the homeland security missions of 22 federal agencies and offices within the Department of Homeland Security. Most of functions of DHS fall within 4 primary directorates: border and transportation security, emergency preparedness and response, science and technology, and information analysis and infrastructure protection. The Coast Guard and the Secret Service maintain an independent status within the department.

## **Summary**

### **Provisions Removed by Democrat Manager's Amendment**

- Support for a single, principal committee in the House and Senate responsible for oversight and authorization of the Homeland Security Department, as recommended by the 9/11 Commission (Sec. 305)
- Prohibiting grants to universities barring Coast Guard recruiters (Section 409)
- Post employment lobbying restrictions for senior DHS employees (Section 507)
- Establishment of the National Bio and Agro-defense Facility to help combat against the of agro-terrorism (Section 606)
- Enhanced Monitoring of Student and Exchange Visitor Program (Section 904)
- Pilot program for Biometric identification of illegal aliens (Section 906)
- Clarification of the eligible uses of interoperability communications grants (Section 1101)
- Terrorist watch list and immigration status review at high-risk critical infrastructure (Section 1104)

- Copyright protection of the DHS seal (Section 1109)
- Report on Secret Service information sharing with Federal, State, and local law enforcement (Section 1110)
- Report on the capabilities of a Secret Service training facility (Section 1111)
- Authorizing personnel strength and increased funding for Secret Service (Section 1120)
- Enforcement and penalties for maritime alien smuggling (Section 1201 – 05)

### **Provisions amended by the Democrat Manager's Amendment**

- Creation of a centralized policy office responsible for the development and supervision of policy for all programs, offices and activities of the Department (Section 201)
- Centralization of Direct Line Authority for Chief Operating Officers (Section 202)

### **Authorization of Appropriations** (Title I)

- Authorizes \$39,863,000,000 in appropriations for the Department of Homeland Security (DHS) for fiscal year 2008.

*\*Note: The amount of funding authorized is \$2,118,505,000 above the President's fiscal year 2008 budget request in gross discretionary funding for the Department of Homeland Security.*

### **Policy and Management Improvements** (Title II)

- Directs the Secretary of Homeland Security to undertake a Comprehensive Homeland Security Review for the Department of Homeland Security at the beginning of every new presidential administration, similar to the review done in the Department of Defense (Section 203).
- Requires a budget line item for the Office of Counternarcotics Enforcement to strengthen the Office's authority over its general budget and requires the Department of Homeland Security to recognize the Office of Counternarcotics Enforcement as the Department's primary representative on all counternarcotics related committees and taskforces (Section 2006).
- Directs the Secretary of Homeland Security to ensure that the Assistant Secretary for Legislative Affairs has sufficient authority to ensure that his or her counterparts in the component agencies adhere to the laws, rules, regulations, and Departmental policies for which the Assistant Secretary for Legislative Affairs is responsible for implementing (Section 208).

### **Oversight Provisions** (Title III)

- Requires the Inspector General of the Department of Homeland Security to monitor each Secure Border Initiative contract valued at greater than \$20 million to ensure compliance with cost requirements, performance objectives, small business participation goals, and other objectives (Section 301).
- Authorizes \$108.5 million for the Department of Homeland Security's Office of the Inspector General (Section 303).
- Requires the Secretary of Homeland Security to actively consult with the Congressional homeland security committees and keep the committees fully informed of the Department's activities (Section 304).

### **Procurement Policy and Resources Provisions** (Title IV)

- Authorizes the Secretary of Homeland Security to hire up to 250 annuitants with experience in procurement and contract management to support the Department of Homeland Security's acquisitions capabilities and enhance contract management throughout the Department (Section 402).
- Requires the Secretary of Homeland Security to consider the past performance of a contractor prior to deciding whether to award such contractor with a contract (Section 403).
- Requires the Chief Procurement Officer to conduct an independent review of each procurement for compliance with the Buy American Act (Section 404).
- Provides that funds appropriated to the Department of Homeland Security may not be used for procurement of uniforms, protective gear, badges, or identification cards for Department personnel if those items are not manufactured in the United States. The requirement does not apply if the Secretary determines that such items cannot be procured at a satisfactory level of quality or sufficient quantity (Section 407).
- Restricts the Secretary of Homeland Security's ability to manage the workforce of the Federal Protective Service until the completion of a report by the Government Accountability Office on the sources of shortfalls at that agency. Prohibits the Secretary from conducting a reduction in force or furlough until the Committee on Homeland Security and the Committee on Transportation and Infrastructure in the House of Representatives and the Committee on Homeland Security and Government Affairs of the Senate hold hearings on this issue (Section 410).

### **Workforce and Training Provisions** (Title V)

- Grants law enforcement status for retirement purposes to Customs and Border Protection Officers retroactive to the date of creation of the Department of Homeland Security in March 2003 (Section 501).
- Requires the Secretary of Homeland Security to develop and submit to Congress a plan to address the recruitment and retention challenges of hiring Border Patrol agents by, among other things, utilizing pay, recruitment, relocation, and retention bonuses to attract and maintain the border security workforce (Section 505).
- Requires the Secretary of Homeland Security to conduct a Department-wide review of the security clearance and suitability review process for employees, contractors, and State, local, and private sector officials who require access to the Department's sensitive information (Section 508).
- Establishes the position of Chief Security Officer in the Department of Homeland Security and sets for areas of responsibility for that position (Section 509).
- Restricts the Secretary of Homeland Security's ability to manage the Department's workforce by repealing the human resources management provisions in the Homeland Security Act of 2002. Also repeals the President's authority to waive the human resources management provisions in the Homeland Security Act not expressly repealed by this section (Section 512).

#### **Biopreparedness Provisions** (Title VI)

- Authorizes the Office of Health Affairs and the position of Chief Medical Officer and Assistant Secretary for Health Affairs (Section 601).
- Establishes the National Biosurveillance Integration Center to enhance the Federal government's ability to rapidly identify and track a biological event (Section 604).
- Directs the Secretary of Homeland Security to develop a scientific, quantifiable risk analysis process for chemical, biological, radiological, and nuclear agents, and to conduct integrated assessments of such threats (Section 605).

#### **Homeland Security Cybersecurity Provisions** (Title VII)

- Authorizes \$50 million for cybersecurity research and development, and directs the Department to engage in fundamental long term research projects designed to improve the ability of the Nation to prevent, protect against, detect, and respond to cyber attacks (Section 702).

#### **Science and Technology Provisions** (Title VIII)

- Authorizes \$31 million for the Centers of Excellence Program and \$8 million for the Minority Serving Institutions program for fiscal year 2008. Also requires at least one of

the next four Centers of Excellence established by the Department be located at a Minority Serving Institution (Section 802).

- Requires the Secretary to provide sufficient numbers of trained personnel to analyze technologies submitted to the Department to be designated and certified under the SAFETY Act, which provides for liability safe-harbors for qualifying anti-terrorism technologies (Section 804).
- Establishes the Science and Technology Homeland Security International Cooperative Programs Office (Section 805).

### **Border Security Provisions** (Title IX)

- Requires submission of a comprehensive strategy for the biometric entry and exit data systems, commonly known as US-VISIT, and prohibits transfer of US-VISIT to the National Protection and Programs Directorate, as determined by the Secretary, until after this strategy has been submitted to Congress (Section 901).
- Authorizes \$4.1 million in fiscal year 2008 for the Shadow Wolves Program, which specifically tracks drug smugglers on Indian reservation lands (Section 902).
- Requires the Government Accountability Office to review the policies and procedures of the Border Patrol regarding use of force and pursuit of fleeing vehicles (Section 907).

### **Information Sharing Provisions** (Title X)

- Establishes the State and Local Fusion Center Program, which will include deployment of Department personnel and retired local law enforcement to participating centers and maintenance of headquarters staff (Section 1001).
- Establishes a program for privacy, civil liberties, and civil rights protection training to be administered by the Department's Office of Civil Liberties and Civil Rights, and authorizes \$3 million for each of fiscal years 2008 through 2013 for this program (Section 1002).

### **Miscellaneous Provisions** (Title XI)

- Expands a program within the Federal Law Enforcement Training Center to provide homeland security training to local and tribal law enforcement agencies in rural areas (Section 1102).
- Adds U.S. military surplus vehicles to the Authorized Equipment List for States and localities to purchase such vehicles with homeland security assistance grants (Section 1105).

- Requires recipients of grants administered by the Department to submit expenditure reports to the Secretary no later than 30 days after the last day of each fiscal quarter (Section 1107).
- Creates a new grant program to assist States achieve compliance with the REAL ID Act of 2005 (Section 1113).
- Requires a report from the Secretary on the status of Departmental activities regarding agriculture security and prevention of agro-terrorism (Section 1116).
- Requires a report on the vulnerabilities of the Nation's levee system to terrorist attacks (Section 1117).
- Authorizes the use of homeland security grant funds to improve security at State and local judicial facilities (Section 1119).
- Requires the Secretary to share information, within privacy considerations, on disaster assistance requested or provided in response to an act of terrorism, natural disaster, or other emergency to Federal, State, and local law enforcement entities to assist in the location of a missing child or a sex offender (Section 1121).

### **Additional Views**

The Ranking Member of the Committee on Homeland Security, Rep. Peter King (R-NY), has raised concerns that the bill (1) ignores direct recommendations of the 9/11 Commission; (2) fails to include a number of Committee-passed provisions that improve our homeland security by enhancing immigration enforcement, strengthening lobbying restrictions on former DHS employees, increasing funding authorization for the Secret Service, improving the Secret Service information sharing capabilities; and (3) repeals some of the authorities given to the President and the Secretary of Homeland Security to effectively manage and maintain the homeland security workforce.

### **Amendments**

*(Below are the summaries of the amendments that were made in order by the Rules Committee and may be offered on the floor of the House of Representatives)*

#### **Amendments Made in Order Pursuant to the Rule**

##### **1) Rep. Thompson (D-MS) Manager's Amendment**

**2) Rep. Davis, Tom (R-VA)** This amendment removes section 407 of the bill, which requires that identification cards, uniforms, protective gear, and badges of Homeland Security personnel be manufactured in the United States.

**3) Rep. Langevin (D-RI)** The amendment directs the Federal Emergency Management Agency and the Disability Coordinator at the Department of Homeland Security to enter a cooperative

agreement with the National Organization on Disability (NOD) to carry out NOD's Emergency Preparedness Initiative.

**4) Rep. Andrews (D-NJ)** The amendment provides up to 14 days per calendar year of job protection for volunteer emergency service personnel who respond to a Presidentially-declared disaster in an official capacity. Any individual discriminated against in violation of the provision may seek redress in court.

**5) Rep. Brown, Corrine (D-FL)** The amendment would direct the Secretary of Homeland Security, in awarding grants under the Urban Area Security Initiative, to consider the number of tourists that have visited an urban area in the two years preceding the year the Secretary awards the grant.

**6) Rep. Castle (R-DE)** The amendment requires the Secretary of Homeland Security to study foreign rail security practices that are not currently used in the U.S. and submit a report on recommendations for implementing such practices within one year of enactment.

**7) Rep. Hastings (D-FL)** The amendment establishes a permanent FEMA long-term recovery office in Florida. Under the amendment, FEMA will evaluate effectiveness of the recovery office five years following enactment.

**8) Rep. Flake (R-AZ)** The amendment would strike Section 1103, the Critical infrastructure study.

**9) Rep. Stupak (D-MI)** The amendment requires the Secretary of Homeland Security to issue a report to Congress outlining the resources currently devoted to Integrated Border Enforcement Teams (IBETs) and making recommendations on how to improve the effectiveness of the IBET program.

**10) Reps. Hastings (R-WA)/Dicks (D-WA)/Reichert (R-WA)** The amendment requires the Department of Homeland Security's strategic plan to include a plan for fulfilling existing National Laboratory infrastructure commitments to maintain current capabilities and mission needs.

**11) Rep. Kucinich (D-OH)** The amendment will authorize FEMA to conduct a comprehensive study of the increase in demand for FEMA's emergency response and disaster relief services as a result of weather related disasters associated with global warming during the next 5, 10, and 20 years. The assessment will include an analysis of the budgetary and manpower implications of meeting such increased demand for FEMA services.

**12) Rep. Rothman (D-NJ)** The amendment would prohibit the Secretary of Homeland Security from pre-empting any state's more stringent chemical security regulation, standard, or requirement.



**13) Rep. Rothman (D-NJ)** The amendment requires the Secretary of DHS to report to Congress on how to coordinate and protect the infrastructure in the area between Port Elizabeth and Newark International Airport in New Jersey.

**14) Rep. Sherman (D-CA)** The amendment would require that the Section 605 Risk Analysis Process and the Chemical, Biological, Radiological and Nuclear (CBRN) Risk Assessment include analyses of government efforts to inform the public of the appropriate ways to prepare for, and respond to, a CBRN incident, including civil defense efforts and the stockpiling of medical supplies.

**15) Rep. Terry (R-NE)** The amendment requires the U.S. Department of Homeland Security to consult with states prior to sharing information on forthcoming grant awards, including when sharing information with the U.S. Congress.

**16) Rep. Mica (R-FL)** The amendment requires that the Secretary of Transportation, in addition to the Secretary of Homeland Security as is in the original bill, work with the Center for Risk and Economic Analysis of Terrorism Events to evaluate the feasibility and practicality of creating further incentives for private sector stakeholders to share protected critical information with the Department of Transportation in addition to the Department of Homeland Security, as is in the original bill.

**17) Rep. Cardoza (D-CA)** The amendment expresses the Sense of the Congress that supporting the standards in the SAFECOM interoperability continuum is critical for local communities in executing their interoperability programs.

**18) Rep. Van Hollen (D-MD)** The amendment requires the Secretary of Homeland Security to consult with the Terrorist Screening Center to require the head of any agency that recommends a name for inclusion on a no-fly or automatic selectee list to provide to the Secretary a written justification for the recommendation. The Secretary of Homeland Security will make available to Members of Congress upon request the information contained in the written justifications.

**19) Rep. Castor (D-FL)** The amendment directs DHS to work with the State of Florida and other States to ensure that the Transportation Worker Identification Credential program is compatible, to the extent practicable, with existing access control credentials.

**20) Rep. Lampson (D-TX)** This amendment will allow an Inspector General of the Department of Homeland Security to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or “cold cases” involving children, stored at the National Center for Missing & Exploited Children (NCMEC) and to develop recommendations for further investigations.

**21) Rep. Royce (R-CA)** The amendment would require the Secretary of Homeland Security to implement at primary inspection points at U.S. ports of entry the Stolen and Lost Travel Document database managed by Interpol.

**Cost**

The CBO estimates that implementing H.R. 1684 would cost \$39.5 million from 2008-2012.

**Staff Contact**

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